



Signed and Filed: February 7, 2025

*Dennis Montali*

DENNIS MONTALI  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re ) Bankruptcy Case  
E. LYNN SCHOENMANN, ) No. 22-30028-DM  
Debtor. ) Chapter 7  
\_\_\_\_\_) \_\_\_\_\_  
STUART SCHOENMANN, in his ) Adversary Proceeding  
capacity as executor of the ) No. 22-03105-DM  
estate of Donn R. Schoenmann, ) Consolidated with Adv. Proc.  
Plaintiff, ) No. 24-03035-DM  
v. )  
E. LYNN SCHOENMANN, )  
Defendant. )  
\_\_\_\_\_) \_\_\_\_\_  
E. LYNN SCHOENMANN, ) Adversary Proceeding  
Plaintiff, ) No. 24-03035-DM  
v. ) **MEMORANDUM DECISION ON MOTION**  
STUART SCHOENMANN, Individually ) **FOR STAY PENDING APPEAL**  
and as Executor of the Probate )  
Estate of Donn R. Schoenmann, )  
CELESTE LYTLE; BETH SCHOENMANN; )  
and COLETTE SIMS, )  
Defendants. )

1       **I. INTRODUCTION.**

2           Creditor and state court Petitioner Stuart Schoenmann, both  
3 as executor of the Estate of Donn Schoenmann and individually,  
4 together with creditors and state court Petitioners Celeste  
5 Lytle, Beth Schoenmann, and Colette Sims (collectively  
6 "Appellants"), appealed five of this court's orders on December  
7 19, 2024 ("the five orders").

8           The five orders were entered in the main case, *In re*  
9 *E. Lynn Schoenmann*, Case No. 22-30028 and two of them were  
10 also entered in A.P. No. 24-03035 (respectively, the "Main  
11 Case" and "Adversary Proceeding"). After filing notices of  
12 appeal, Appellants filed virtually identical motions for  
13 stay pending appeal (the "Motion") in both the Main Case  
14 and the Adversary Proceeding. The appeals are now  
15 designated in the United States District Court under Case  
16 No. 3:25-cv-00142-EMC and Case No. 3:25-cv-00504-EMC. The  
17 Motion requests that the court "stay all proceedings  
18 between and/or concerning the (sic) themselves and E. Lynn  
19 Schoenmann ("Debtor") until these appeals are finally  
20 decided." Adversary Proceeding, Dkt. 24, P. 1.<sup>1</sup>

21           Appellants did not specifically request a stay of any of  
22 the five orders, but rather seek to suspend essentially all  
23 bankruptcy proceedings pending the appeal of the five orders  
24 pursuant to Fed. R. Bankr. P. ("Rule") 8007(a)(1)(D) (though no  
25 parties cite to any part of this Rule). A suspension of all  
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27       <sup>1</sup> The Motion filed the Main Case is identical to what is quoted  
28 above, except that the Appellants refer to themselves as  
"Petitioners" rather than "themselves."

1 bankruptcy proceedings concerning the Appellants would include  
2 the stay of the effect of some, but not all, of the five orders,  
3 and it is unclear to the court even now what the Appellants  
4 expect the court to do about parts of those orders that took  
5 effect prior to the filing of the Motions.

6 For the reasons that follow, the court will DENY the  
7 Motion.

8 **II. The Five Orders.**

9 On November 19, 2024, the court entered an order ("first  
10 order") (Main Case, Dkt. 614) approving the Chapter 7 Trustee's  
11 motion to abandon and dispose of certain personal property  
12 located at real property in Idyllwild, CA, and one painting  
13 located in Arizona ("Arizona Painting"). That order was not  
14 stayed. As to the personal property located in Idyllwild, it is  
15 the court's understanding that the Trustee worked with  
16 Appellants on two separate occasions to walk through and collect  
17 personal property that Appellants claim is property of Donn  
18 Schoenmann's probate estate. It is also the court's  
19 understanding that the Trustee worked with Anna Schoenmann,  
20 Debtor and Donn Schoenmann's adult daughter, to collect what  
21 amounted to twelve items that were either Anna's separate  
22 personal property, or property not collected by Appellants on  
23 previous visits.

24 On December 9, 2024, the court issued an order that denied  
25 a renewed motion for relief from stay previously filed by  
26 Appellants ("second order") (Main Case, Dkt. 629). On the same  
27 day, it entered an order ("third order") (Main Case, Dkt. 630)  
28 authorizing the Chapter 7 Trustee to abandon Debtor's inherited

1 IRA and two required minimum distributions and to remit one  
2 required minimum distribution, subject to the court's prior  
3 Sequestration Orders (Main Case, Dkts. 156, 315), which restrain  
4 Debtor from accessing or using those funds until further order  
5 and explicitly does not disturb any other party's asserted  
6 rights to the money. That order was not stayed.

7 On December 11, 2024, the court issued a further order  
8 regarding the Arizona Painting ("fourth order") (Main Case, Dkt.  
9 631) that permitted either the Debtor to cover costs for  
10 delivery of the Arizona Painting, or permitted Trustee to  
11 dispose of the painting entirely. On the same day, it issued an  
12 order consolidating Adversary Proceeding No. 24-03035 with  
13 Adversary Proceeding No. 22-03105 ("fifth order") (Main Case,  
14 Dkt. 632). That order was not stayed.

15 Appellants do not request a stay of any of the five orders  
16 specifically.<sup>2</sup> In the interest of completeness, however, the  
17 court notes that there is nothing of substance to stay regarding  
18 these five orders.

19 The first order allowed the Trustee to do what he has  
20 subsequently done prior to Motions, and nothing related to that  
21 order can be stayed. Appellants did not seek to enjoin any  
22 actions that may be taken subsequent to the order, and actively  
23 participated in disposal property after the order took effect.

24 To stay the second order denying a prior motion for relief  
25 from stay is to do nothing.

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27 <sup>2</sup> The Motion does not invoke Rule 8007(a)(1)(A), that deals with  
28 "a stay of the bankruptcy court's judgment, order, or decree  
pending appeal;"

1 The third order, as noted above, has already taken effect,  
2 and continues to restrain Debtor from accessing or using those  
3 funds until further order and explicitly does not disturb any  
4 other party's asserted rights to the money.

5 The fourth order has also taken effect. The court cannot  
6 stay events that have already taken place and that Appellants  
7 have not sought to enjoin Debtor from doing anything with the  
8 Arizona painting.

9 Finally, as to the fifth order, while the court could treat  
10 the two consolidated adversary proceedings as separate pending  
11 appeal, there would simply be no practical effect. The  
12 consolidation is simply a streamlining of related adversary  
13 proceedings so they could be administered as one matter rather  
14 than two, in terms of scheduling and briefing. Even if the  
15 court were to stay the consolidation, it could still proceed to  
16 administer the two separate adversary proceedings in tandem for  
17 efficiency purposes, and parties would file identical briefs in  
18 two proceedings as opposed to one.

19 For all of these reasons, the Motion will be denied as to  
20 the five orders.

21 **III. Factors for Stay/Suspension Pending Appeal.**

22 What appears to be the true substance of Appellants'  
23 request is the requested suspension of administration of nearly  
24 every aspect of this bankruptcy through Rule 8007(a)(1)(D) until  
25 the appeals of the five orders (which, as noted, are discrete  
26 and have little or nothing to do with Appellants overall  
27 arguments regarding the Probate Exception) are resolved.  
28

1 Granting such sweeping relief under the rubric of a motion  
2 for stay pending appeal of specific orders, while contemplated  
3 in Rule 8007(a) (1) (D) and (e), is uncommon.

4 Motions to stay a proceeding pending appeal (and certainly  
5 suspension of matters beyond the order(s) on appeal) are highly  
6 discretionary and should only be exercised when "irremediable  
7 injury may result from the effect of the decree" and should be  
8 "sparingly employed and reserved for the exceptional situation."  
9 *In re Wymer*, 5 B.R. 802, 806 (BAP 9th Cir. 1980).

10 Parties seeking a stay pending appeal must make a showing  
11 under four factors: "(1) whether the stay applicant has made a  
12 strong showing that he is likely to succeed on the merits; (2)  
13 whether the applicant will be irreparably injured absent a stay;  
14 (3) whether issuance of the stay will substantially injure the  
15 other parties interested in the proceeding; and (4) where the  
16 public interest lies." *Nken v. Holder*, 556 U.S. 418, 433-34  
17 (2009).

18 As to the first factor, Appellants have not shown that they  
19 are likely to succeed on the merits of the appeal. The court  
20 has previously discussed in multiple of its orders that the  
21 probate exception of *Marshall v. Marshall*, 547 U.S. 293, 311-12  
22 (2006), has been waived by the Appellants by their full-throated  
23 participation in the bankruptcy for years, via multiple  
24 adversary proceedings, including a nondischargeability  
25 proceeding, exemption objections, and other acts. Further, the  
26 probate exception is not applicable at all to some of the orders  
27 on appeal and has only questionable relation to the others. The  
28 Order Consolidating Adversary Proceedings 22-03105 and 24-03035

1 (Main Case, Dkt. 632) is a procedural order germane only to this  
2 court. The Order Granting Chapter 7 Trustee's Motion for Order:  
3 1) Approving Abandonment of the Estate's Interest in the  
4 Inherited IRA and Two Required Minimum Distributions; 2)  
5 Authorizing the Trustee to Remit One of the Required Minimum  
6 Distribution Funds to the Debtor (Main Case, Dkt. 630) is, as  
7 discussed above, subject to the court's prior Sequestration  
8 Orders (Main Case, Dkts. 156, 315), interpretation of which is  
9 solely the jurisdiction of this court, not the state court.

10 The court agrees that ownership of the Arizona painting is  
11 a discrete question that should be decided by probate court.  
12 The orders on abandonment of IRA funds, personal property and  
13 stay relief are so intertwined with all the bankruptcy matters  
14 described here and in the reasoning for each of the five orders,  
15 that they cannot be separated. Once the bankruptcy issues are  
16 resolved, the rest might well be sent to the probate court for  
17 determination.<sup>3</sup>

18 As to the second factor, the Appellants have not shown that  
19 substantial harm will come to them if the Motion is not granted.  
20 If it does turn out that Appellants are entitled to certain  
21 property Debtor currently claims is part of the bankruptcy  
22 estate, any liability Debtor may owe to Appellants would be  
23 based on post-petition conduct and not be discharged, and  
24 property improperly retained could be returned to the  
25 Appellants.

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26  
27 <sup>3</sup> If Appellants pursue the appeals of any of the five orders, the  
28 District Court can consider whether those appeals are  
interlocutory, timely or have merit. Those are inquiries which  
this court lacks jurisdiction to address.

1       The third factor is neutral. The only harm that Debtor and  
2 the Trustee would be subject to during a stay pending appeal is  
3 further delay. In a nearly three-year old case, this harm is  
4 minimal.

5       As to the fourth factor, there are not sufficient public  
6 interest implications to merit a suspension pending appeal of  
7 the five orders. There are competing public interests in both  
8 probate and bankruptcy proceedings being resolved efficiently  
9 and according to the law. The rest of the disputes boil down to  
10 a private matter between embattled family members and do not  
11 implicate the public at all.

12       Having considered these factors, the court will also deny  
13 the request to suspend any aspect of this bankruptcy case in its  
14 disposition of the Motion.

15 **IV. CONCLUSION**

16       For the reasons stated above, the court will by separate  
17 order DENY the Motion.

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19                   \*\*END OF MEMORANDUM DECISION\*\*  
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